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ORIGINAL

July 22, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: In the Matter of Amendment of Section 2.106 of the Commission's Rules
to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service
Request for Acceptance of Late Reply Comments Filing

Dear Mr. Caton:

Transmitted herewith, on behalf of Microwave Telecommunications, Inc. (MTI), are an original and five copies of MTI's Reply Comments in the above-captioned proceeding.

We note that the deadline for the filing of Reply Comments in this docket occurred yesterday, July 21, 1997. However, due to problems in finalization of the document and the need to conference with our client concerning final review of the document, it has been impossible to arrange filing of these Reply Comments until today. Thus, MTI respectfully requests that the Commission, in the interest of obtaining a full record of comment in this proceeding, accept this filing.

Moreover, as the Reply Comments of MTI merely explain MTI's support for the positions of certain parties previously expressed in formal Comments on the record, no party to this proceeding will be prejudiced by the Commission's acceptance of this Reply. Accordingly, the Commission's favorable action on this request is sought.

Thank you in advance for your assistance in this matter. Should questions concerning this filing be presented, kindly contact the undersigned at the direct telephone number shown above.

Very truly yours,

Rick D. Rhodes ^(vnd)

Rick D. Rhodes

RDR\vnd

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FEDERAL COMMUNICATIONS COMMISSION
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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 2.106 of the)	ET Docket 95-18
Commission's Rules to Allocate)	
Spectrum at 2 GHz for Use by)	RM-7927
the Mobile Satellite Service)	

To: The Commission

**REPLY COMMENTS OF
MICROWAVE TELECOMMUNICATIONS, INC.**

Microwave Telecommunications, Inc. ("MTI") pursuant to the provisions of Section 1.415 of the Federal Communications Commission's Rules and Regulations, by its attorneys, hereby respectfully submits these Reply Comments in response to the Further Notice of Proposed Rulemaking ("Further Notice") adopted by the Commission in the above-captioned proceeding.¹

I. BACKGROUND STATEMENT

MTI, among other things, provides telecommunications services to federal, state, and local government entities as well as to commercial customers in the north Texas region, with a particular emphasis in the Dallas/Fort Worth metropolitan market. MTI operates several Common Carrier Point-to-Point Fixed Microwave Service facilities in the 2.1 GHz band. Thus, as MTI would potentially face migration from its current spectrum assignments, the outcome of the instant proceeding is of great interest and potentially holds significant ramifications for the

¹ First Report and Order and Further Notice of Proposed Rulemaking, ET Docket No. 95-18 (March 14, 1997).

continued operation of MTI's fixed microwave facilities. Accordingly, MTI is pleased to have this opportunity to present its Reply Comments to the Commission.

II. COMMENTS

MTI agrees with other commenters from the microwave fixed user community on several points concerning the Commission's proposals. Specifically, due to the mobile nature of the proposed operations of the Mobile Satellite Service ("MSS") MTI agrees with several commenters that coordination and sharing of the spectrum between MSS and fixed service licensees will be difficult due to the serious potential for interference to fixed service facilities.² Thus, as the potential for sharing is minimal, adequate measures must be adopted for the migration of incumbent fixed licensees to alternative spectrum.

In this context, the Commission must allow adequate time for a seamless transition to new spectrum assignments by fixed microwave licensees, so that the transition will not disrupt their current operations, many of which are critical to the safety and welfare of the public. Accordingly, MTI is in agreement with commenters who note that the relocation negotiation period must provide sufficient time for the parties to engage in meaningful negotiations. Because of the greater number of incumbent fixed licensees operating in the 2.1 GHz band than were present in the Personal Communication Services ("PCS") migrations in the band 1850-1990 MHz, the Commission should allow a lengthier transition period than the total two year period adopted in the PCS proceeding. Specifically, a three year minimum transition period should be adopted

² See (generally): Comments of Burlington Northern and Santa Fe Railway Company and Norfolk Southern Corporation.

by the Commission; and, this transition timetable should consist of a two year voluntary negotiation period followed by a one year mandatory negotiation period.³

MTI further agrees with several commenters that adoption of a sunset date on the responsibility of MSS licensees to fully compensate migrated fixed licensees would be both inequitable and counter productive.⁴ Whenever a fixed licensee is forced to migrate to a new frequency assignment or technology to accommodate the commercial interests of an MSS licensee, adequate compensation must be forthcoming. Notwithstanding the arguments put forward by MSS interests, if there is sufficient demand for MSS services to warrant allocation of spectrum and construction of nationwide systems, certainly the MSS licensee community should have sufficient financial resources to fully assume relocation costs of licensees who must migrate from their spectrum assignments to advance the commercial objectives of MSS operators.⁵ Moreover, due to the paired nature of fixed assignments in the 2 GHz spectrum, MSS licensees must pay all incumbent expenses for relocation from both halves of any channel pair from which they may be relocated for the benefit of MSS licensees.⁶

Additionally, and with regard to equitable treatment of incumbent licensees, MTI reminds the Commission that not every fixed microwave licensee entity is a large national corporation. While no doubt many fixed links are operated by such entities, MTI and numerous other entities

³ Comments of UTC-The Telecommunications Association ("UTC") at 4.

⁴ See (generally): Comments of the American Petroleum Institute ("API"), UTC, and Affiliated American Railroads ("AAR").

⁵ Comments of UTC at 5; Comments of API at 6; Comments of AAR at 5; Comments of AT&T Wireless Services at 2-3.

⁶ Comments of API at 10; UTC at 7; AAR at 8.

licensed for fixed 2 GHz operations qualify as "small businesses" under the Commission's regulations. The Commission has confirmed unequivocally that small businesses face special obstacles in remaining viable players in the telecommunications industry. Further, the Commission has stated that in response to the concerns of Congress, it will make special efforts to ensure the long term viability of small business in the telecommunications field.⁷ Accordingly, MTI reminds the Commission that as it deliberates the future prospects of fixed 2 GHz system licensees in this proceeding, it must give special attention to the needs of qualified small businesses. MTI believes that the treatment of incumbents as described herein would be reasonable and would meet the Commission's standards for providing adequate assistance to small business in this instance.

III. CONCLUSION

MTI is in general agreement with the comments of other fixed service licensees that incumbent licensee rights must not be diminished by the Commission in an effort to accommodate MSS applicants and/or licensees. The Commission must ensure that incumbents are fully reimbursed for migration from current spectrum assignments by MSS licensees, and must ensure that relocation includes a seamless and nondisruptive handoff to new facilities with reimbursement being issued for both halves of any channel pair lost by an incumbent. Moreover, imposition of a sunset date on MSS licensee responsibility to pay for spectrum transition and migration activity

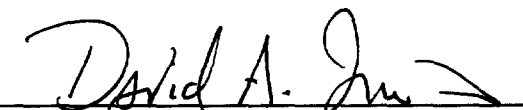
⁷ In the Matter of Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses, GN Docket No. 96-113, Report, FCC DA-97-164 (released May 8, 1997).

would be counterproductive and inequitable. The Commission must take into account the needs of small businesses who operate fixed service systems. Such licensees do not have the resources of capital and personnel required to perform migration activity on expedited timetables; and, unless small business licensees are fully compensated for migration activity they will face potentially insurmountable financial hardships. Thus, the Commission must ensure an adequate timetable for spectrum transition activities, as well as adequate long-term cost compensation measures.

WHEREFORE, THE PREMISES CONSIDERED, Microwave Telecommunications, Inc. respectfully seeks Commission action in accordance with the foregoing Reply Comments.

Respectfully submitted,

Microwave Telecommunications, Inc.

By: 
David A. Irwin
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Its Attorneys

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